REMARKS

I. Introduction

In view of the above amendments and the following remarks, reconsideration of the rejections contained in the Office Action of July 6, 2009 is respectfully requested.

By this amendment, claims 10 and 18 have been amended and claims 20-23 have been added. Claims 1-11 and 14-23 are now pending in the application. No new matter has been added by these amendments.

II. Prior Art Rejections

Currently, claims 1-5, 8-11, 14, and 17-19 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over Arazi et al. (US 2001/0041594) and claims 6-7 and 15-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Arai et al. in view of Xu et al. (US 6,151,628).

Claims 1, 10, and 18 are patentable over Arazi et al. and Xu et al., whether taken alone or in combination, for the following reasons. Claim 1 requires an access control device for controlling an access from a resource use device to a resource providing device for using a resource provided by the resource providing device, the access control device comprising, *inter alia*, a communication unit that directly communicates with the resource use device and the resource providing device. Similarly, claim 18 requires, *inter alia*, an access control device that controls an access by the resource use device, wherein the access control device includes a communication unit that directly communicates with the resource use device and the resource providing device. Claim 10 requires a resource providing device for accepting an access from a resource use device permitted to access by an access control device and providing a resource, the

resource providing device comprising, *inter alia*, a communication unit that directly communicates with the access control device and the resource use device.

Arazi et al. discloses a wireless private branch exchange (WPBX) including handsets, several base stations, and a switch. In the Office Action of February 24, 2009, the Examiner asserts that the handset (133) corresponds to the resource use device, the base station (124) corresponds to the resource providing device, and the switch (129) corresponds to the access control device, with a citation to Figure 2 of Arazi et al. (See page 2 of that Office Action.) In addressing the underlined claim language above on page 12 of the Office Action of July 6, 2009, the Examiner states that the Arazi et al. reference is considered to disclose direct communication between the switch (129) and the handset (133) because the switch can be "implemented as part of one of the base stations. In this case *the switch/base station serves as the switch* and is in direct communication with the handsets in the switch's coverage area." (Emphasis added.) As such, in asserting the above-cited prior art rejection against claims 1 and 18 the Examiner equates separate structures of Arazi et al. with separate structures in the claims, but in addressing the functional claim language "directly communicates with the resource use device and the resource providing device," the Examiner considers separate structures of the Arazi et al. collectively. Restated, the Examiner interprets the switch (129) and the base station (124) as being separate and distinct structures in order to meet the structural requirements of the claims, but interprets the switch (129) and base station (124) as being and function as a single structure ("the switch/base station serves as the switch") in order to meet the functional requirements of the claims. These two claim interpretations are mutually exclusive, and thus the prior art rejection is improper for failing to meet each and every limitation of the claim. If the switch (129) and the base station (124) are considered collectively to be the switch ("the switch/base

station serves as the switch"), then there is no remaining structure to assert as corresponding to the claimed resource providing device. If the switch (129) and the base station (124) are not considered collectively to be the switch, then it is improper to consider the direct communication of the base station (124) as a function of the switch (129).

Notably, the prior art rejection of the Office Action of July 6, 2009 sets forth a completely different interpretation of the Arazi et al. reference. Specifically, the Examiner asserts that the handset (133) corresponds to the resource use device, the switch (129) corresponds to the resource providing device, and the base station (124) corresponds to the access control device, with a citation to Figure 2 of Arazi et al. (See page 2 of the Office Action.) However, page 3 of the Office Action of July 6, 2009 asserts that the switch (129) performs the functions of the access control device. For instance, beginning on line 15 the Examiner states "the switch also serves as an existence check unit," but the claims require that the access control device comprise the existence check unit. Restated, the Office Action asserts that the switch (129) of Arazi et al. corresponds structurally to the resource providing device, but performs the functions of the access control device. Because Arazi et al. does not disclose "each and every element as set forth in the claim," the prior art rejection is improper. See MPEP 2131.

While it is clear from the above-discussed requirements of claims 1, 10, and 18 that the prior art cannot meet all the requirements of those respective claims, this is also clearly established by applicable legal precedent. Binding legal precedent from the United States Court of Appeals for the Federal Circuit establishes that a claim requires multiple structures simply by virtue of the fact that the structures are recited in the claim using distinct terminology. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999) (holding that a claim which recited three structures: a closure member, a landing member, and a disposal means, could not be anticipated

by a prior art reference which taught only two corresponding structures, even though the two structures in the prior art were capable of performing all the functions of the three structures recited in the claim.) In reversing the Board of Patent Appeals and Interferences, the Federal Circuit held that "the Board failed to recognize that the third mechanical fastening means in claim 76, used to secure the diaper for disposal, was separate from and independent of the two other mechanical means..." *Id.* at 745. In failing to identify a separate and independent structure as required by the claim at issue, the prior art rejection in *Robertson* failed to establish that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Id.*; see also MPEP 2131 ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.")

As a simple matter of law, claim 76 in the Robertson case required three distinct structures by virtue of the fact that the claim recited (1) a closure member, (2) a landing member, and (3) a disposal means; similarly, the claims of the present case require three distinct structure by virtue of the fact that the claim recites: (1) an access control device, (2) a resource providing device, and (3) an access control device. With respect to the prior art rejection set forth in the Office Action of February 24, 2009, it is improper for the Examiner to interpret the handset (133) of Arazi et al. as corresponding to the resource use device, the base station (124) as corresponding to the resource providing device, and the switch (129) as corresponding to the access control device, and then make a conflicting interpretation that the switch (129) and the base station (124) collectively correspond to the access control device in addressing the same claim. With respect to the prior art rejection set forth in the Office Action of July 6, 2009, it is improper for the Examiner to interpret the switch (129) of Arazi et al. as corresponding

structurally to the resource providing device, but performing the functions of the access control device. Each of claims 1, 10, and 18 require at least three distinct structures with at least three corresponding distinct functions; the prior art fails to meet those limitations and as such the prior art rejection set forth in the Office Action must be withdrawn.

In item 19 on page 13 of the Office Action of July 6, 2009, the Examiner agrees with Applicants' argument that a handset of Arazi et al. needs to have an initial connection with the base station in order to have "a request to initiate a new call." However, the Examiner asserts that the initial connection request made by the handset of Arazi et al. is a connection request and does not constitute "true access being granted" until a connection is made that provides the handset with a resource. Importantly, the exact claim language at issue requires: "an access permission unit that *instructs the resource providing device* via the communication unit to *permit an access* from the resource use device." (Emphasis added.) In other words, the issue with regard to this particular claim language is not what level or quality of access is permitted ("initial connection" as distinguished from "connection…that provides the handset a resource"), the issue is whether the access permission unit *instructs* the resource providing device to permit an access. There simply is no disclosure in Arazi et al. of the switch *instructing* the base station *to permit an access* as asserted in the Office Action of February 2009. Likewise, there is no disclosure in Arazi et al. of the base station instructing the switch to permit an access as asserted in the Office Action of July 2009. Because Arazi et al. does not disclose an access permission unit that instructs the resource providing device via the communication unit to permit an access from the resource use device, Arazi et al. cannot meet the requirements of claims 1 and 18.

Moreover, the configuration of the present invention has further advantages over Arazi et al. and the remainder of the prior art. As suggested by the Examiner, in paragraph [0081] of the

specification of Arazi et al., there is the description that "the Switch 129 may be a part of one Base Station." However, with reference to figure 2 of Arazi et al., if the switch (129) is a part of the base station (124) as suggested by the Examiner, the switch/base station may directly communicate with the handset 133, but the "switch/base station" cannot directly communicate with a handset 121. Additionally, if the switch (129) is a part of the base station (123), although the switch/base station may directly communicate with the handset 121, the "switch/base station" cannot directly communicate with the handset 133. Accordingly, even if the switch (129) is a part of the base station (124), the switch (129) can directly communicate with only one handset. Furthermore, the base stations 123-125 of Arazi et al. do not constitute a router or a gateway to connect to the Internet (see Figures 3A and 3B of Arazi et l.)

In contrast, as shown in FIG. 1, the access control device (10) of the present invention can directly communicate with all devices of the resource providing device (20) and resource use device (30). In addition, in communication via the Internet, the router and the gateway are used and the direct communication is not interrupted.

It is thus submitted that the invention of the present application, as defined in claims 1, 10, and 18, is not anticipated nor rendered obvious by the prior art, and yields significant advantages over the prior art. Allowance is respectfully requested.

Claims 2-9 and 19-23 depend, directly or indirectly, from claim 1 and are thus allowable for at least the reasons set forth above in support of claim 1. Claims 11 and 14-17 depend, directly or indirectly, from claim 10 and are thus allowable for at least the reasons set forth above in support of claim 10.

In view of the foregoing amendments and remarks, inasmuch as all of the outstanding issues have been addressed, Applicants respectfully submit that the present application is now in

condition for allowance, and action to such effect is earnestly solicited. Should any issues remain after consideration of the response, however, the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

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